

SECTION B: REMARKS

I. INTRODUCTION

This Amendment is responsive to the Office Action dated December 28, 2008. Claims 1, 3-10, and 12-20 were pending in this application. Claims 1, 3-10, and 12-20 are presently subject to rejection.

Claims 1, 3 and 6-10, 12-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tanida, US Pat. No. 6,621,013 ("Tanida").

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanida in view of Osten US Pat. No. 5,719,950.

Claims 1, 3, 4, 7, 8, 9 and 10 have been amended herein, without prejudice. No other claims have been amended, cancelled, withdrawn, or added. Therefore, Claims 1, 3-10, and 12-20 remain pending in this case. Reconsideration is respectfully requested.

II INTERVIEW SUMMARY SUBSTANCE MADE OF RECORD

Applicant would initially like to thank Examiner Richman for his time and consideration and for granting the interview of March 13, 2008.

Examiner contended that the means plus function limitations of Claim 10, while not specifically disclosed in Tanida, were inherent in its disclosure, therefore all limitations of Claim 10 as presently amended read on the prior art. No specific agreements were made as to allowable claims, however, both parties remained open to future agreement as to the allowability of method Claim 14 as previously presented.

III. CLAIM REJECTIONS UNDER 35 U.S.C. §102(b)

Claims 1, 3, 6-10 and 12-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanida, US Pat. No. 6,621,013, ("Tanida").

Tanida discloses a digital weight apparatus having a bioelectrical impedance ("bioimpedance") feature to identify a user. Initially in Tanida's device and method, a user's personal data is stored to the device to include user's sex, height, and age. Next, a bioelectrical impedance measuring unit is employed to be able to identify a user in subsequent uses of the device. Each time the weight device is operated by a user, the personal data is used to calculate percent body fat and body fat mass. The bioimpedance aspect of Tanida will obviate the need for users to identify themselves to the device.

The present invention is distinguishable from the prior art in that the digital weight apparatus has a microprocessor that manages and tracks user's profiles. The profiles are more sophisticated than the stored personal data that is only used for the single purpose of calculating percent body fat. For example, the profiles allow the user to add data input after the initial set up procedure, such as target measurement information. Further, profiles of the present invention stored in the device can allow user to compare target data with measured data and also present past and present data in the form of trends. See para. [0017].

Independent Claim 1 herein has been amended to include the device having user profiles that are updated with measurement information. These limitations are not present in the cited art. Therefore Applicant respectfully submits that amended Claim 1 is

patentable for the novel limitations recited by this amendment. Further, since Claims 3, 6-10 and 12, 13 depend either directly or indirectly from Claim 1, these claims are likewise allowable both for their dependency and the novel claim limitations recited therein.

Independent method Claim 14 similarly contains the limitation "updating said current user's individual user profile with the measurement information." For the reasons stated herein, Applicant respectfully submits that Claim 14 is allowable. Additionally, since Claims 15-20 depend either directly or indirectly from Claim 14, these claims are likewise allowable both for their dependency and the novel claim limitations recited therein.

IV. CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Dependent Claims 4 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tanida in view of Osten.

Similarly, Applicant respectfully asserts that since independent Claim 1 is patentable for the reasons set forth above, dependent Claims 4 and 5 are likewise allowable both for their dependency and the novel claim limitations recited therein.

VI. CONCLUSION

Based on the above amendment and accompanying remarks, Applicant respectfully submits that all pending claims are in condition for allowance and earnestly solicits a notice thereof. Applicant further encourages the Examiner to telephone the

undersigned attorney if it appears that a telephone conference would facilitate allowance of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TW Fitzwilliam', with a stylized, cursive script.

Timothy W. Fitzwilliam, Reg. No. 46,439
Attorney for Applicant
Catalyst Law Group, APC
9710 Scranton Road, Suite 170
San Diego, California 92121
(858) 450-0099
tfitzwilliam@catalystlaw.com